

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BOARHEAD FARM AGREEMENT GROUP,

Plaintiff,

v.

CIVIL ACTION NO.
02-cv-3830 (LDD)

ADVANCED ENVIRONMENTAL
TECHNOLOGY CORPORATION, et al.,

Defendants.

**DECLARATION OF MELISSA E. FLAX IN OPPOSITION TO PLAINTIFF'S MOTION
FOR PROTECTIVE ORDER**

I, Melissa E. Flax, Esq., of full age and upon her oath, declares as follows:

1. I am an attorney at law in the state of New Jersey and a member of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein, attorneys for defendant Handy & Harman Tube Company, Inc. I have been admitted *pro hac vice* to this Court for this matter.
2. Attached hereto as Exhibit A are true and accurate copies of email correspondence between counsel for plaintiff and myself regarding the scheduling and the rescheduling of the Rule 30(b)(6) designee for Agere Systems, Inc., a member of the plaintiff group.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 8, 2005.

By: MF1386
MELISSA E. FLAX

CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI, STEWART & OLSTEIN
5 Becker Farm Road
Roseland, New Jersey 07068
(973) 994-1700
(973) 994-1744 (fax)

Attorneys for Defendant, Handy & Harman
Tube Company, Inc.

E X H I B I T A

Melissa Flax

From: Melissa Flax
Sent: Saturday, January 29, 2005 12:14 PM
To: 'harrisg@ballardspahr.com'
Subject: Boarhead Farm - Deposition of Agere 30(b)(6) witness

Glenn,

On January 21, 2005, I faxed to you a notice for deposition pursuant to Rule 30(b)(6) for a representative(s) from Agere with respect to the matters listed in the notice. A week has now passed and I have not heard from you regarding a mutually convenient time and place for the deposition. Nor have you provided me with the name(s) of the representative(s). If I do not hear from you with respect to the foregoing, I will be compelled to unilaterally schedule the deposition. Your prompt attention to this matter is appreciated.

Melissa E. Flax
Carella, Byrne, Bain, Gilfillan,
Cecchi, Stewart & Olstein
5 Becker Farm Road
Roseland, New Jersey 07068
(973) 994-1700
(973) 994-1744
mflax@carellabyrne.com

Melissa Flax

From: Harris, Glenn A. (VH) [HarrisG@ballardspahr.com]
Sent: Monday, January 31, 2005 5:08 PM
To: Melissa Flax
Subject: Boarhead - Agere 30(b)(6) deposition

Melissa,

As we discussed on the phone, Marianne Santarelli will be the designee for Agere, and is available to be deposed in Agere's Allentown offices on the afternoon of 2/10.

Regards,

Glenn

Glenn A. Harris
Ballard Spahr Andrews & Ingersoll, LLP
856-761-3440
harrisg@ballardspahr.com

Melissa Flax

From: Melissa Flax
Sent: Thursday, February 03, 2005 9:18 AM
To: 'Harris, Glenn A. (VH)'
Subject: RE: Boarhead - Agere dep

Glenn,

I can do February 22. May we start at 10:00 rather than in the afternoon? I will send out a revised deposition notice once I hear back from you regarding the time of the deposition.

Melissa

-----Original Message-----

From: Harris, Glenn A. (VH) [mailto:HarrisG@ballardspahr.com]
Sent: Thursday, February 03, 2005 8:41 AM
To: Melissa Flax
Subject: Boarhead - Agere dep

Melissa,

The Agere dep could be moved to 2/22. How does that work for you?

Regards,

Glenn

Glenn A. Harris
Ballard Spahr Andrews & Ingersoll, LLP
856-761-3440
harrisg@ballardspahr.com

Melissa Flax

From: Melissa Flax
Sent: Friday, February 18, 2005 1:34 PM
To: 'harrisg@ballardspahr.com'
Subject: Boarhead - Deposition of Agere 30(b)(6) witness

Glenn,

This will confirm our telephone conversation yesterday wherein I advised you that we will proceed with the deposition scheduled for Tuesday, February 22, 2005 at 10 a.m. at Agere's Allentown facility. By proceeding with the deposition, I am not waiving my right to depose a witness with information responsive to items D and E set forth in the Third Amended Deposition Notice. You have objected to those two items and I will respond to you shortly regarding your objection.

Melissa E. Flax
Carella, Byrne, Bain, Gilfillan,
Cecchi, Stewart & Olstein
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(973) 994-1700
(973) 994-1744
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